

Criminal Revision No. 242 of 1999 (R)

In the matter of an application under Section 397 and 401
of the Code of Criminal Procedure

Debilal Gorai son of late Jaj Mal Gorai resident of
village Chando, PS Peterwear, District Giridih... .. Petitioner

Versus

1.The State of Bihar
2.Ganesh Mahto son of Sarju Mahto
3.Fungi Devi wife of Sarju Mahto
4.Sarju Mahto son of Late Sheela Mahto
all resident of village Choutad, PS Harla, District Bokaro
... .. Opposite Parties

For the Petitioner : Mr. B. K. Dubey, Advocate
For the Opposite Party No. 1 : Mr. Vikash Kishore, A.P.P.

PRESENT:

HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

8/10.01.2017 Heard Mr. B. K. Dubey, learned counsel for the petitioner and
Mr. Vikash Kishore, learned A.P.P. for the State.

This application has been directed against the judgment dated
17.07.1999 passed by the learned 2nd Additional Sessions Judge,
Bokaro at Chas passed in Criminal Appeal No. 51 of 1995 by which the
opposite party no. 2 to 4 have been acquitted and order of conviction
against the respondent nos. 2 to 4 passed in S.T. No. 99 of 1991 by
the 1st Assistant Sessions Judge, Bokaro has been set aside.

It has been submitted that his daughter had died in unnatural
circumstances within 7 years of marriage and the opposite party no. 2
& 3 being parents-in-law and the opposite party no. 4 being brother-in-
law of the deceased had committed said offence which resulted in
death of his daughter. It has been submitted that the trial court has
properly appreciated the materials available on record and thereafter
convicted opposite party nos. 2 to 4 for the offence punishable under
Sections 304B/34 of I.P.C. and sentenced them to undergo R. I. for
seven years. He submits that merely because of a vague statement of
opposite party nos. 2 to 4 that they some times used to reside in the
official quarters of opposite party no. 2 at Bokaro, the same cannot
lead to presumption that opposite party nos. 2 to 4 has not committed
torture and demanding dowry which resulted in the death of the
petitioner's daughter. It has also been submitted that several ante
mortem injuries were found on the person of the deceased and the
deceased was also poisoned by the accused persons. Learned

counsel submits that the learned appellate court merely on presumption has acquitted the opposite party nos. 2 to 4 without there being any basis whatsoever.

Mr. Arun Kumar Pandey, learned counsel for the State has supported the contention of the learned counsel for the petitioner and submitted that evidences on record do suggest that opposite party nos. 2 to 4 committed an offence and therefore, the judgment of reversal by the learned appellate court deserves to be set aside.

It appears from the judgment of the learned trial court that the opposite party nos. 2 to 4 were found guilty for the offence punishable under Sections 304B/34 of the I.P.C. and were sentenced to undergo R.I. for 7 years. On appeal, the learned appellate court while discussing the evidences of the informant had come to a conclusion that it could not be concretely proved that opposite party nos. 2 to 4 used to reside in the matrimonial house of the deceased as frequently they used to reside in the official quarters of the opposite party no. 2 at Bokaro. The view which has been expressed by the learned appellate court with respect to the absence or regular presence of opposite party nos. 2 to 4 in the matrimonial house of the deceased, is quite acceptable in view of the statement of the informant in course of the trial, wherein it has been categorically stated that the opposite party nos. 2 to 4 some times used to reside at the official quarters of the opposite party no. 2 at Bokaro.

Since from the evidence in course of trial, two views are possible, the learned appellate court was perfectly justified in accepting the statements which gave benefit of doubt to the opposite party nos. 2 to 4. In such view of the matter, no error or illegality is detected in the judgment dated 17.07.1999 passed in Criminal Appeal No. 51 of 1995, so far as the order of acquittal which has been passed in favour of the opposite party nos. 2 to 4 are concerned and accordingly, having found no merit to interfere in the impugned judgment, this application is dismissed.

(Rongon Mukhopadhyay, J)